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APR 21 2004

OFFICE OF PETITIONS

In re Application of
Todd A. Merritt et al.
Application No. 10/712,150
Filed: November 13, 2003
Attorney Docket No. 2008.001982

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition filed under 37 CFR 1.47(a) on February 27, 2004.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on November 13, 2003. The application names Todd A. Merritt and Nicholas VanHeel but the oath or declaration filed upon application was not executed by Mr. VanHeel.

Accordingly, on February 12, 2004, a "Notice To File Missing Parts of Application" was mailed, requiring, *inter alia*, an executed oath or declaration, and a surcharge for its late filing. A two month period for reply was set.

In response, on February 27, 2004, the present petition was filed. Petitioners assert that diligent efforts were used to locate Mr. VanHeel and show that Internet searches as well as directory assistance searches were conducted, that correspondences were sent to addresses in Idaho and Connecticut but that to date, Nicholas VanHeel has not contacted them to confirm that the addresses used were in fact proper addresses for the intended joint inventor.

A grantable petition under 37 CFR 1.47(a) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee; and
- (4) a statement of the last known address of the non-signing inventor.

The present petition lacks items (4).

In regards to item (4), the last known addresses of joint inventor Nicholas VanHeel has not been provided as required by 37 CFR 1.47. Petitioners must provide a statement of

the last known address of the nonsigning inventors. That address should be the last known address at which the inventors customarily receive mail. Ordinarily, the last known address will be the last known residence of the nonsigning inventor. While Internet searches and directory assistance inquiries show diligent efforts, diligent efforts to locate a non-signing inventor should at least start with the last known address of the non signing inventor.

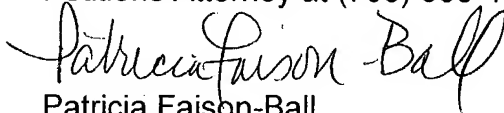
Status under 37 CFR 1.47(a) cannot be accorded this application until such time as efforts to reach Nicholas VanHeel have been attempted at the last known address.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (703) 305-4497.

A handwritten signature in cursive script, reading "Patricia Faison-Ball". The signature is written in dark ink and is positioned above the printed name and title of the signatory.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions